

RECEIVED

OCT 15 '84

1984 AUG 12 11 10 21

COMPLIANCE AGREEMENT

ENFORCEMENT AND
FIELD OPERATIONS

PHELPS DODGE COPPER PRODUCTS

THIS COMPLIANCE AGREEMENT BETWEEN PHELPS DODGE COPPER PRODUCTS, P. O. BOX 20200, EL PASO, TEXAS, 79998, AND THE EXECUTIVE DIRECTOR OF THE TEXAS DEPARTMENT OF WATER RESOURCES (TDWR) REPRESENTS A DETERMINATION BY THE EXECUTIVE DIRECTOR THAT FORMAL ENFORCEMENT ACTION PERTAINING TO ALLEGED VIOLATIONS OF THE TEXAS SOLID WASTE DISPOSAL ACT, TEX. REV. CIV. STAT. ANN. ART. 4477-7, AS AMENDED, AND/OR CHAPTER 26 OF THE TEXAS WATER CODE, AS AMENDED, WILL BE WITHHELD AS LONG AS PHELPS DODGE COPPER PRODUCTS PROPERLY COMPLETES THE ACTS REQUIRED BY THIS AGREEMENT, IN ACCORDANCE WITH THE TERMS HEREIN, INCLUDING THE COMPLIANCE SCHEDULE OR AN AMENDED COMPLIANCE AGREEMENT. THIS AGREEMENT DOES NOT CONSTITUTE A WAIVER OR MODIFICATION OF ANY APPLICABLE REQUIREMENT OF THE TDWR. IF PHELPS DODGE COPPER PRODUCTS DOES NOT COMPLY WITH ALL THE TERMS OF THIS AGREEMENT, THE TDWR MAY SEEK CIVIL PENALTIES AND OTHER RELIEF FOR ALL VIOLATIONS, INCLUDING THOSE THAT OCCURRED PRIOR TO THE EXECUTION OF THIS AGREEMENT. THE EXECUTION OF THIS AGREEMENT DOES NOT CONSTITUTE ANY ADMISSION OR ACCEPTANCE OF LIABILITY BY PHELPS DODGE COPPER PRODUCTS, NOR DOES PHELPS DODGE COPPER PRODUCTS (PHELPS DODGE) ADMIT THAT IT HAS VIOLATED ANY STATUTE OF THE STATE OR RULES OF THE TDWR.

PHELPS DODGE COPPER PROD CO
TXD048924989

1. Closure Plan

At TDWR's request, the unlined acid pickling solution surface impoundment was converted by Phelps Dodge in 1980 into two adjacent storage impoundments each with polyethylene and clay liners and a leachate detection system. In converting the unlined impoundment, corrosive waste and contaminated soils were removed. An acid pickling solution treatment plant was also installed. The lined impoundments are currently used for emulsion recovery.

Due to these conditions, groundwater monitoring was not previously required of Phelps Dodge. However, in order to insure proper closure of the unlined impoundment and to enable Phelps Dodge to continue to utilize the lined impoundments for emulsion recovery, the following is agreed to:

Within 30 days from the effective date of this agreement (see 5. Effective Date), Phelps Dodge shall submit a closure plan for the sulfuric acid pickling solution surface impoundments in accordance with 31 TAC §§ 335.211-.220. The closure plan shall specify:

SHOULD BE

FEB 07 1995

RECORDED

- (a) An estimate of the hazardous waste inventory in the impoundments at the time of closure;
- (b) A groundwater monitoring plan for detecting potential soil and groundwater contamination around and beneath the currently lined impoundments;
- (c) A description of activities which have been taken and/or which will be taken in accordance with the interim status requirements of 31 TAC § 335.286(a) and (b) to:
 - (1) remove hazardous waste from the impoundments;
 - (2) remove contaminated soil, if any, from around and beneath the currently lined impoundments;
 - (3) remove contaminated groundwater, if any, from around and beneath the impoundments;
 - (4) decontaminate appurtenant equipment.
- (d) A schedule for implementing closure activities.

Pursuant to 31 TAC § 335.213(d), Phelps Dodge shall provide the public, through newspaper notice, the opportunity to submit written comments on the plan. If modifications are deemed necessary by the Executive Director, Phelps Dodge shall integrate these changes into the closure plan or shall show reason why they should not be integrated. If the plan is modified, then the modified plan shall become the approved closure plan. Phelps Dodge shall then implement the closure plan in accordance with the approved schedule.

2. Groundwater Quality Assessment Plan

Within 30 days from the effective date of this agreement (see 5. Effective Date), Phelps Dodge shall submit for approval a groundwater quality assessment plan acceptable for compliance with 31 TAC § 335.191(f) and 31 TAC § 335.194(d). The groundwater assessment plan shall provide:

- (a) A monitor well to provide samples of the background water quality of the uppermost aquifer and a sufficient number of downgradient monitor wells positioned to intercept potential seepage from the surface impoundments;
- (b) A list of chemical parameters based upon waste constituents for which groundwater samples shall be analyzed;

- (c) A sampling and analysis plan which will specify procedures for sample collection, sample preservation and shipments, analytical procedures, and chain of custody controls; and
- (d) A schedule for well installation, sample collection and reporting analytical results.

3. Financial Assurance

In accordance with 31 TAC § 335.231-.233 all required financial assurance for the estimated cost of closure as well as sudden and non-sudden liability insurance shall be maintained by Phelps Dodge and approved by the Executive Director. Written proof of Financial assurance shall be submitted in proper form to the Department within thirty (30) days of the effective date of this agreement (see 5. Effective Date). Written proof of sudden and non-sudden liability insurance coverage shall be submitted to the Department within fourteen (14) days of the effective date of this agreement, unless prior compliance has been achieved.

4. Effective Correspondence

All documents required under this agreement shall be submitted to:

Executive Director
Texas Department of Water Resources
P. O. Box 13087, Capitol Station
Austin, Texas 78711

5. Effective Date

The "effective date" of this agreement shall be September 12, 1984.

10/17/84
Date signed

October 8, 1984
Date signed

Charles E. Nemir
Charles E. Nemir, Executive
Director
Texas Department of Water
Resources

Raymond Scheurer
Phelps Dodge Copper Products
Raymond Scheurer, Plant Manager (El Paso)